

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE

BOBBY HARRIS,

Plaintiff,

V.

GOODMAN MANUFACTURING
COMPANY, L.P.,

Defendant.

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CIVIL ACTION NO. 4:12-cv-00011

DEFENDANT'S NOTICE OF REMOVAL

Defendant Goodman Manufacturing Company, L.P.¹ ("Defendant"), pursuant to 28 U.S.C. § 1441, *et seq.*, hereby gives its Notice of Removal of an action pending in the Circuit Court of Tennessee for Lincoln County, to the United States District Court for the Eastern District of Tennessee at Chattanooga, the District and Division within which this action is presently pending, and provides the following statement as grounds for removal:

1. On January 6, 2012, a complaint was filed by Plaintiff Bobby Harris against Defendant in the Circuit Court of Tennessee for Lincoln County, entitled *Bobby Harris v. Goodman Manufacturing Company, L.P.*, Case No. C1200004.

2. Venue is proper in this district and division under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending, *i.e.*, Lincoln County, Tennessee.

3. Defendant was served with a copy of the Summons and Complaint on January 26, 2012. Pursuant to 28 U.S.C. § 1446(a), copies of the Summons, Complaint, and Surety Clause

¹ Plaintiff has sued the wrong corporate entity. The correct Defendant is Goodman Company, L.P. The undersigned also represents Goodman Company, L.P.

as well as all other “process, pleadings, and orders served” on Defendant to date are attached to this Notice of Removal as “Exhibit A.”

4. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal has been timely filed. Plaintiff’s Complaint was the first paper from which Defendant could ascertain that Plaintiff’s case was removable, and this Notice of Removal has been filed within thirty (30) days of service of the Complaint on Defendant.

5. Defendant is simultaneously filing a copy of this Notice of Removal with the Circuit Court of Tennessee for Lincoln County, and Defendant has given notice of the same to Plaintiff as required by 28 U.S.C. § 1446(d). See “Exhibit B”.

Removal Based on Federal Question Jurisdiction²

6. “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.

7. This Court possesses original jurisdiction over this civil action because the Complaint alleges a violation of 29 U.S.C. §§ 2601, *et seq.* (commonly referred to as the “Family Medical Leave Act” or “FMLA”). (Exhibit A, at Complaint, at pp. 1-5).

8. In his Complaint, the Plaintiff concedes this Court’s jurisdiction, stating that “[j]urisdiction is also proper in state or federal court pursuant to 29 U.S.C. § 2617(2).” (*Id.*, at Complaint, at p. 1).

² This Court also possesses original jurisdiction over this civil action because it involves diversity jurisdiction under 28 U.S.C. § 1332, which requires complete diversity of citizenship between the parties as well as an amount in controversy exceeding \$75,000, exclusive of interests and costs. Here, Plaintiff is a resident of Tennessee. (Complaint, at Sec. I). The undersigned counsel represents that Defendant Goodman Manufacturing Company, L.P. is a limited partnership established under the laws of the State of Texas and it maintains its principal place of business in the State of Texas. Plaintiff’s allegations, when read in conjunction with the demands contained in the Complaint, establish that the amount in controversy exceeds \$75,000, exclusive of interest and costs. Accordingly, there exists complete diversity of citizenship in this action within the meaning of 28 U.S.C. § 1332.

WHEREFORE, Defendant requests that this case be removed from the Circuit Court of Tennessee for Lincoln County and proceed in the United States District Court for the Eastern District of Tennessee at Chattanooga, as an action properly removed thereto.

DATED: February 10, 2012

Respectfully submitted,

By: s/ J. Y. Elliott, III
J. Y. Elliott, III
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ATTORNEYS FOR DEFENDANT
GOODMAN MANUFACTURING
COMPANY, L.P.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served on all counsel of record, as listed below, via certified mail, return receipt requested, on February 10, 2012.

David M. Dolan, Esq.
Ray Akers, Esq.
1161 Murfreesboro Road
Suite 200
Nashville, TN 37217

By: s/ J. Y. Elliott, III